

## **IC 28-8-4**

### **Chapter 4. Money Transmitters**

#### **IC 28-8-4-1**

##### **Applicability**

Sec. 1. This chapter does not apply to the following:

- (1) The United States or an instrumentality of the United States.
- (2) The state, a political subdivision of the state, or an instrumentality of the state or of a political subdivision of the state.
- (3) A bank, a bank holding company, an industrial loan and investment company, a credit union, a savings association, a savings bank, a mutual bank, or a mutual savings bank organized under the laws of any state or the United States.
- (4) A stored value card, credit card, or debit card issued by a state or federally chartered financial institution.

*As added by P.L.42-1993, SEC.85. Amended by P.L.172-1997, SEC.23; P.L.79-1998, SEC.81; P.L.258-2003, SEC.16; P.L.10-2006, SEC.51 and P.L.57-2006, SEC.51; P.L.89-2011, SEC.55; P.L.216-2013, SEC.39.*

#### **IC 28-8-4-2**

##### **Applicant**

Sec. 2. As used in this chapter, "applicant" means a person filing an application for a license under this chapter.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-3**

##### **Authorized delegation**

Sec. 3. As used in this chapter, "authorized delegate" means an entity designated by a licensee to:

- (1) sell or issue payment instruments; or
- (2) engage in the business of transmitting money on behalf of the licensee.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-3.5**

##### **Closed system stored value card**

Sec. 3.5. As used in this chapter, "closed system stored value card" refers to a stored value card the use of which is limited to one (1) or more specified merchants or locations.

*As added by P.L.10-2006, SEC.52 and P.L.57-2006, SEC.52.*

#### **IC 28-8-4-4**

##### **Control**

Sec. 4. As used in this chapter, "control" means:

- (1) ownership; or
  - (2) the power to vote at least twenty-five percent (25%);
- of the outstanding voting securities of a licensee or controlling person.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-5**

##### **Controlling person**

Sec. 5. As used in this chapter, "controlling person" means a person in control of a licensee.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-6**

##### **Department**

Sec. 6. As used in this chapter, "department" means the members of the department of financial institutions.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-7**

##### **Director**

Sec. 7. As used in this chapter, "director" has the meaning set forth in IC 28-11-2-1.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-8**

##### **Executive officer**

Sec. 8. As used in this chapter, "executive officer" means a person who is or performs the duties of the licensee's:

- (1) president;
- (2) chief executive officer;
- (3) treasurer; or
- (4) chief financial officer.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-8.5**

##### **Individual**

Sec. 8.5. As used in this chapter, "individual" means a natural person.

*As added by P.L.216-2013, SEC.40.*

#### **IC 28-8-4-9**

##### **Key shareholder**

Sec. 9. As used in this chapter, "key shareholder" means:

- (1) a person who owns; or
- (2) a group of persons acting as a unit that own;

at least twenty-five percent (25%) of a class of an applicant's stock.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-10**

##### **Licensed activities**

Sec. 10. As used in this chapter, "licensed activities" means money transmission activities:

- (1) that a licensee engages in:
  - (A) from a place of business in Indiana; or

- (B) with a consumer who is a resident of Indiana and who enters into the transaction in Indiana; and
- (2) for which a licensee has obtained a license under this chapter.

*As added by P.L.42-1993, SEC.85. Amended by P.L.216-2013, SEC.41.*

#### **IC 28-8-4-11**

##### **Licensee**

Sec. 11. As used in this chapter, "licensee" means a person licensed under this chapter.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-12**

##### **Material litigation**

Sec. 12. As used in this chapter, "material litigation" means litigation that under generally accepted accounting principles is considered significant to the financial health of a business and would be required to be referenced in a corporation's or business's annual audited financial statements, report to shareholders, or a similar document.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-13**

##### **Money transmission**

Sec. 13. (a) As used in this chapter, "money transmission" means an activity that:

(1) involves:

(A) the sale or issuance of payment instruments primarily for personal, family, or household purposes; or

(B) engaging in the business of:

(i) receiving money for transmission from; or

(ii) transmitting money to;

any location and by any means, including a payment instrument, wire, facsimile, or electronic transfer, primarily for personal, family, or household purposes; and

(2) is performed:

(A) from an office or place of business, wherever located; or

(B) over the Internet or by any other means of transmission.

(b) The term includes any activity described in subsection (a) that is performed by an authorized delegate, wherever located.

*As added by P.L.42-1993, SEC.85. Amended by P.L.89-2011, SEC.56; P.L.216-2013, SEC.42.*

#### **IC 28-8-4-13.8**

##### **Organization**

Sec. 13.8. As used in this chapter, "organization" means a corporation, a government or governmental subdivision, an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, an association, a joint venture, an unincorporated

organization, or any other entity, however organized.  
*As added by P.L.216-2013, SEC.43.*

#### **IC 28-8-4-14**

##### **Outstanding payment instrument**

Sec. 14. As used in this chapter, "outstanding payment instrument" means a payment instrument issued by the licensee that:

- (1) has been sold in the United States;
- (2) has been sold:
  - (A) by the licensee; or
  - (B) by an authorized delegate of the licensee and has been reported to the licensee as having been sold; and
- (3) has not been paid by or on behalf of the licensee.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-15**

##### **Payment instrument**

Sec. 15. (a) As used in this chapter, "payment instrument" means:

- (1) a check;
- (2) a draft;
- (3) a money order;
- (4) a traveler's check;
- (5) a stored value card, other than a closed system stored value card; or
- (6) an instrument or written order for the transmission or payment of money;

sold or issued to one (1) or more persons, whether such instrument is negotiable.

(b) As used in this chapter, "payment instrument" does not include:

- (1) a credit card voucher;
- (2) a letter of credit;
- (3) an instrument that is redeemable by the issuer in goods or services; or
- (4) a closed system stored value card.

*As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.53 and P.L.57-2006, SEC.53.*

#### **IC 28-8-4-16**

##### **Permissible investments**

Sec. 16. As used in this chapter, "permissible investments" means:

- (1) cash;
- (2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
- (3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, that are eligible for purchase by member banks of the Federal Reserve system;
- (4) an investment bearing a rating of one (1) of the three (3) highest grades as defined by a nationally recognized

organization that rates such securities;

(5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States, or any obligations of any state, municipality, or any political subdivision thereof;

(6) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities;

(7) a demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;

(8) receivables that are due to a licensee from the licensee's authorized delegates under a contract described in section 49 of this chapter, which are not past due or doubtful of collection; or

(9) an investment that is approved by the director.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-17**

##### **Person**

Sec. 17. As used in this chapter, "person" means an individual or an organization.

*As added by P.L.42-1993, SEC.85. Amended by P.L.216-2013, SEC.44.*

#### **IC 28-8-4-18**

##### **Repealed**

*(Repealed by P.L.216-2013, SEC.45.)*

#### **IC 28-8-4-19**

##### **The state**

Sec. 19. As used in this chapter, "the state" means Indiana.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-19.5**

##### **Stored value card**

Sec. 19.5. As used in this chapter, "stored value card" means a card or device that:

(1) may be used by a holder to:

(A) perform financial transactions; or

(B) obtain, purchase, or receive money, goods, or services; in an amount or having a value that does not exceed the dollar value of the card; and

(2) has a magnetic stripe or computer chip that enables dollar values to be electronically added to or deducted from the dollar value of the card.

*As added by P.L.10-2006, SEC.54 and P.L.57-2006, SEC.54.*

#### **IC 28-8-4-20**

**License required; application; felonies; evidence of compliance; criminal background checks; tax warrant list**

Sec. 20. (a) A person may not engage in the business of money transmission:

- (1) from a place of business in Indiana; or
- (2) with a consumer who is a resident of Indiana and who enters into the transaction in Indiana;

without a license required by this chapter.

(b) An application for a license must be:

- (1) submitted on a form prescribed by the director and must include the information required by the director; and
- (2) accompanied by a nonrefundable application fee as fixed by the department under IC 28-11-3-5.

(c) An application submitted under this section must indicate whether any individuals described in section 35(b)(2) or 35(b)(3) of this chapter have been convicted of a felony under the laws of Indiana or any other jurisdiction.

(d) The director may request evidence of compliance with this section at:

- (1) the time of application;
- (2) the time of renewal of a license; or
- (3) any other time considered necessary by the director.

(e) For purposes of subsection (d), evidence of compliance may include:

- (1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for an individual described in section 35(b)(2) or 35(b)(3) of this chapter;
- (2) credit histories; and
- (3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (d). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(f) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

- (1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or
- (2) the department receives a notice from the commissioner of

the department of state revenue under IC 6-8.1-8-2(k).  
*As added by P.L.42-1993, SEC.85. Amended by P.L.63-2001, SEC.20 and P.L.134-2001, SEC.22; P.L.10-2006, SEC.55 and P.L.57-2006, SEC.55; P.L.90-2008, SEC.56; P.L.35-2010, SEC.180; P.L.172-2011, SEC.134; P.L.216-2013, SEC.46.*

#### **IC 28-8-4-20.5**

#### **Use of NMLSR in department's licensing system; reporting of information to NMLSR; confidentiality; director's authority to enter agreements; waiver of privilege; processing fee; electronic records**

Sec. 20.5. (a) As used in this section, "Nationwide Mortgage Licensing System and Registry" or "NMLSR" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of creditors, mortgage loan originators, and other financial services entities and their employees and agents.

(b) Subject to subsection (g), the director may designate the NMLSR to serve as the sole entity responsible for:

- (1) processing applications and renewals for licenses under this chapter;
- (2) issuing unique identifiers for licensees and entities exempt from licensing under this chapter; and
- (3) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under this chapter.

(c) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and section 47 of this chapter, the director shall regularly report significant or recurring violations of this chapter to the NMLSR.

(d) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and section 47 of this chapter, the director may report complaints received regarding licensees under this chapter to the NMLSR.

(e) The director may report publicly adjudicated licensure actions against a licensee to the NMLSR.

(f) The director shall establish a process by which licensees may challenge information reported to the NMLSR by the department.

(g) The director's authority to designate the NMLSR under subsection (b) is subject to the following:

- (1) Information stored in the NMLSR is subject to the confidentiality provisions of IC 5-14-3 and section 47 of this chapter. A person may not:
  - (A) obtain information from the NMLSR, unless the person is authorized to do so by statute;
  - (B) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or
  - (C) initiate any civil action based on information obtained

from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(2) Documents, materials, and other forms of information in the control or possession of the NMLSR that are confidential under section 47 of this chapter and that are:

(A) furnished by the director, the director's designee, or a licensee; or

(B) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties under this chapter.

(3) Disclosure of documents, materials, and information:

(A) to the director; or

(B) by the director;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(4) Information provided to the NMLSR is subject to IC 4-1-11.

(5) This subsection does not limit or impair a person's right to:

(A) obtain information;

(B) use information as evidence in a civil action or proceeding; or

(C) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(6) The requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(7) For purposes of this section, the director may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the Money Transmitters Regulators Association, or other associations representing governmental agencies, as established by rule or order of the director.

(8) Information or material that is subject to a privilege or confidentiality under subdivision (6) is not subject to:

(A) disclosure under any federal or state law governing the

disclosure to the public of information held by an officer or an agency of the federal government or the respective state;  
or

(B) subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(9) Any provision of IC 5-14-3 that concerns the disclosure of:

(A) confidential supervisory information; or

(B) any information or material described in subdivision (6); and that is inconsistent with subdivision (6) is superseded by this section.

(10) This section does not apply with respect to information or material that concerns the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a person described in section 35(b)(2) or 35(b)(3) of this chapter and that is included in the NMLSR for access by the public.

(11) The director may require a licensee required to submit information to the NMLSR to pay a processing fee considered reasonable by the director. In determining whether the NMLSR processing fee is reasonable, the director shall:

(A) require review of; and

(B) make available;

the audited financial statements of the NMLSR.

(12) Notwithstanding any other provision of law, any:

(A) application, renewal, or other form or document that:

(i) relates to licenses issued under this chapter; and

(ii) is made or produced in an electronic format;

(B) document filed as an electronic record in a multistate automated repository established and operated for the licensing or registration of financial services entities and their employees; or

(C) electronic record filed through the NMLSR;

is considered a valid original document when reproduced in paper form by the department.

*As added by P.L.216-2013, SEC.47.*

#### **IC 28-8-4-21**

##### **Form of license applications; surety bond; fee**

Sec. 21. (a) An application for a license under this chapter must be:

(1) in writing;

(2) under oath; and

(3) in a form prescribed by the director.

(b) An application for a license must be accompanied by the following:

(1) A surety bond as required by section 27 of this chapter. If requested, the director may permit corporations that are directly

or indirectly commonly controlled to engage in activities under this chapter pursuant to a single surety bond filed under section 27 of this chapter.

(2) A nonrefundable license fee as fixed by the department under IC 28-11-3-5.

*As added by P.L.42-1993, SEC.85. Amended by P.L.216-2013, SEC.48.*

#### **IC 28-8-4-22**

##### **Repealed**

*(Repealed by P.L.90-2008, SEC.80.)*

#### **IC 28-8-4-23**

##### **Repealed**

*(Repealed by P.L.90-2008, SEC.80.)*

#### **IC 28-8-4-24**

##### **Contents of license applications**

Sec. 24. An application for licensure under this chapter must contain the following:

- (1) The name of the applicant.
- (2) The applicant's principal address.
- (3) A fictitious or trade name, if any, used by the applicant in the conduct of its business.
- (4) The location of the applicant's business records.
- (5) The history of the applicant's:
  - (A) material litigation; and
  - (B) criminal convictions for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.
- (6) A description of:
  - (A) the activities conducted by the applicant;
  - (B) the applicant's history of operations; and
  - (C) the business activities in which the applicant seeks to be engaged in Indiana.
- (7) A list identifying the applicant's proposed authorized delegates in Indiana.
- (8) A sample authorized delegate contract, if applicable.
- (9) A sample form of payment instrument, if applicable.
- (10) The location or locations at which the applicant and its authorized delegates propose to conduct the licensed activities in Indiana. If any business, other than the business of money transmission under this chapter, will be conducted by the applicant or another person at any location identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:
  - (A) the nature of the other business;
  - (B) the name under which the other business operates;
  - (C) the address of the principal office of the other business;
  - (D) the name and address of the business's resident agent in

Indiana; and

(E) any other information that the director may require.

However, the applicant is not required to submit the information required by this subdivision if the location at which the other business will be conducted is the place of business of an authorized delegate that is not under common control with the applicant.

(11) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable.

(12) Documents revealing that the applicant has a net worth of at least six hundred thousand dollars (\$600,000), calculated in accordance with generally accepted accounting principles.

*As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.56 and P.L.57-2006, SEC.56; P.L.213-2007, SEC.76; P.L.217-2007, SEC.74; P.L.216-2013, SEC.49.*

#### **IC 28-8-4-25**

##### **Applicants not organized as sole proprietorship; contents of applications**

Sec. 25. In addition to the items listed in section 24 of this chapter, if an applicant for licensure under this chapter is not organized as a sole proprietorship, the applicant must provide the following items and information relating to the applicant's organizational structure:

(1) State of incorporation or organization.

(2) Date of incorporation or organization.

(3) A certificate from the state in which the applicant was incorporated or organized stating that the entity is in good standing, or an equivalent certification from the state in which the applicant was incorporated or organized.

(4) A description of the organizational structure of the applicant, including the following:

(A) The identity of the parent of the applicant.

(B) The identity of each subsidiary of the applicant.

(C) The names of the stock exchanges, if any, in which the applicant, the parent, and the subsidiaries are publicly traded.

(5) The:

(A) name;

(B) business address;

(C) residence address; and

(D) employment history;

for each individual described in section 35(b)(2) or 35(b)(3) of this chapter.

(6) The:

(A) history of material litigation; and

(B) history of criminal convictions for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

for each individual described in section 35(b)(2) or 35(b)(3) of this chapter.

(7) Except as provided in subdivision (8), copies of the applicant's audited financial statements for the current year and, if available, for the preceding two (2) years, including a:

- (A) balance sheet;
- (B) statement of income or loss;
- (C) statement of changes in shareholder equity; and
- (D) statement of changes in financial position.

A financial statement required to be submitted under this subdivision must be prepared by an independent certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS).

(8) If the applicant is a wholly owned subsidiary of:

- (A) a corporation or other organization publicly traded in the United States, financial statements for the current year or the parent corporation's or parent organization's Form 10K reports filed with the United States Securities and Exchange Commission for the preceding three (3) years may be submitted with the applicant's unaudited financial statements; or
- (B) a corporation or other organization publicly traded outside the United States, similar documentation filed with the parent corporation's or parent organization's non-United States regulator may be submitted with the applicant's unaudited financial statements.

(9) Copies of filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, not more than one (1) year before the date of filing of the application.

*As added by P.L.42-1993, SEC.85. Amended by P.L.213-2007, SEC.77; P.L.217-2007, SEC.75; P.L.3-2008, SEC.224; P.L.90-2008, SEC.57; P.L.1-2009, SEC.150; P.L.89-2011, SEC.57; P.L.216-2013, SEC.50.*

#### **IC 28-8-4-26**

##### **Repealed**

*(Repealed by P.L.90-2008, SEC.80.)*

#### **IC 28-8-4-27**

##### **Surety bond; requirements; amount; termination; liability; notices**

Sec. 27. (a) An application for licensure under this chapter must be accompanied by a surety bond in accordance with this section.

(b) The surety bond required under subsection (a) must:

- (1) be in the amount of three hundred thousand dollars (\$300,000);
- (2) be in a form acceptable to the director;
- (3) be in effect during the term of the license issued under this chapter;
- (4) remain in effect during the five (5) years after the licensee

ceases offering money transmission services in Indiana;

(5) be payable to the department for the benefit of:

(A) the state;

(B) individuals who reside in Indiana when they agree to receive money transmission services from the licensee; and

(C) entities that do business in Indiana when they agree to receive money transmission services from the licensee;

(6) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and

(7) have payment conditioned upon the licensee's or any of the licensee's employees' or agents' noncompliance with or violation of this chapter or other applicable federal or state laws or regulations.

(c) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this chapter.

(d) If the principal amount of a surety bond required under this section is reduced by payment of a claim or judgment, the licensee for whom the bond is issued shall immediately notify the director of the reduction and, not later than thirty (30) days after notice by the director, file a new or an additional surety bond in the amount needed to restore the amount of the surety bond to three hundred thousand dollars (\$300,000).

(e) If for any reason a surety terminates a bond issued under this section, the licensee shall immediately notify the department and file a new surety bond in the amount of three hundred thousand dollars (\$300,000).

(f) Cancellation of a surety bond issued under this section does not affect any liability incurred or accrued during the period when the surety bond was in effect.

(g) The director may obtain satisfaction from a surety bond issued under this section if the director incurs expenses, issues a final order, or recovers a final judgment under this chapter.

(h) Notices required under this section must be in writing and delivered by certified mail, return receipt requested and postage prepaid, or by overnight delivery using a nationally recognized carrier.

*As added by P.L.42-1993, SEC.85. Amended by P.L.73-2004, SEC.38; P.L.216-2013, SEC.51.*

#### **IC 28-8-4-28**

##### **Repealed**

*(Repealed by P.L.216-2013, SEC.52.)*

#### **IC 28-8-4-29**

##### **Repealed**

*(Repealed by P.L.216-2013, SEC.53.)*

**IC 28-8-4-30****Repealed**

*(Repealed by P.L.216-2013, SEC.54.)*

**IC 28-8-4-31****Repealed**

*(Repealed by P.L.216-2013, SEC.55.)*

**IC 28-8-4-32****Repealed**

*(Repealed by P.L.216-2013, SEC.56.)*

**IC 28-8-4-33****Conduct of business; insurance; permissible investments; good standing**

Sec. 33. (a) A license granted under this chapter permits a licensee to conduct business:

- (1) at one (1) or more locations directly or indirectly owned by the licensee; or
- (2) through one (1) or more authorized delegates.

(b) Each licensee shall maintain a policy of insurance issued by an insurer authorized to do business in Indiana that insures the applicant against loss by a criminal act or act of dishonesty. The principal sum of the policy shall be equivalent to the amount of the surety bond required under section 27 of this chapter.

(c) A licensee must at all times possess permissible investments with an aggregate market value calculated in accordance with generally accepted accounting principles of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee or an authorized delegate of the licensee in the United States.

(d) A licensee that is a corporation or a limited liability company must at all times be in good standing with the secretary of state of the state in which the licensee was incorporated.

*As added by P.L.42-1993, SEC.85. Amended by P.L.73-2004, SEC.39; P.L.216-2013, SEC.57.*

**IC 28-8-4-34****Commonly controlled corporations or organizations**

Sec. 34. The director may permit corporations or other organizations that are directly or indirectly commonly controlled to engage in activities under this chapter, pursuant to a surety bond required under section 27 of this chapter.

*As added by P.L.42-1993, SEC.85. Amended by P.L.216-2013, SEC.58.*

**IC 28-8-4-35****Investigations by director; issuance of licenses; controlling persons; denial of applications**

Sec. 35. (a) The director shall begin an investigation after an

application for licensure under this chapter is complete.

(b) The director shall investigate the financial condition and responsibility, financial and business experience, and character and general fitness of:

- (1) the applicant and any significant affiliate of the applicant;
- (2) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and
- (3) if known, each controlling person.

(c) The director may conduct an onsite investigation of the applicant, the reasonable cost of which shall be borne by the applicant.

(d) The director shall issue a license to an applicant authorizing the applicant to engage in the licensed activities in Indiana for a term expiring December 31 of the year in which the license is issued if the director finds that:

- (1) the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community; and
- (2) the applicant has fulfilled the requirements imposed by this chapter.

(e) Upon application, the director shall determine whether a particular person qualifies as a controlling person. The director may waive any or all requirements of this chapter pertaining to a controlling person for good cause shown.

(f) If the director finds that:

- (1) an applicant does not satisfy the requirements in subsection (d); or
- (2) an application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may deny the application. The director must set forth the reasons for the denial in writing and send a copy of the reasons to the applicant.

*As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.57 and P.L.57-2006, SEC.57; P.L.90-2008, SEC.58; P.L.216-2013, SEC.59.*

#### **IC 28-8-4-36**

##### **Contesting denial of license applications**

Sec. 36. (a) An applicant that is denied a license under section 35(f) of this chapter may, not more than thirty (30) days after receipt of written notice of the denial, contest the denial by serving a response on the director.

(b) The serving of a response on the director automatically stays the denial of the license until a final ruling in the hearing is announced.

(c) The director shall set a date for a hearing not less than sixty (60) days after service of the response. A later date may be set with the denied applicant's consent.

*As added by P.L.42-1993, SEC.85.*

**IC 28-8-4-37****License renewal fees**

Sec. 37. The department shall fix an annual fee for renewal of a license under IC 28-11-3-5. The annual fee shall be paid on or before December 31 of each year.

*As added by P.L.42-1993, SEC.85. Amended by P.L.213-2007, SEC.80; P.L.217-2007, SEC.78; P.L.216-2013, SEC.60.*

**IC 28-8-4-38****License renewal; annual requirements; financial statements; fee; noncompliance; license suspension; late fee; waiver for good cause**

Sec. 38. (a) A licensee may renew a license by complying with the following:

(1) Filing with the director or the director's designee the annual renewal in the form that is prescribed by the director and sent by the director to each licensee not later than December 31 of each year. The renewal must include the following, which, except for the financial statements described in clause (A), must be filed not later than December 31:

(A) Either:

(i) a copy of the licensee's most recent audited consolidated annual financial statements, including a balance sheet, a statement of income or loss, a statement of changes in shareholder's equity, and a statement of changes in financial position; or

(ii) if the licensee is a wholly owned subsidiary, the parent corporation's or parent organization's most recent consolidated audited annual financial statements or the parent corporation's or parent organization's most recent Form 10K report filed with the Securities and Exchange Commission, along with the licensee's unaudited annual financial statements.

The audited financial statements required to be submitted under this clause must be prepared by an independent certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS) and must be filed with the director or the director's designee not later than one hundred twenty (120) days after the close of the calendar or fiscal year covered by the statements.

(B) The number of payment instruments sold by the licensee in Indiana, the dollar amount of those instruments, and the dollar amount of outstanding payment instruments sold by the licensee calculated from the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days before the renewal date.

(C) Material changes to the information submitted by the licensee on its original application or as part of a renewal that have not been reported previously to the director on any

other report or renewal required to be filed under this chapter.

(D) A list of the licensee's permissible investments.

(E) A list of the locations within Indiana at which business regulated by this chapter will be conducted by either the licensee or its authorized delegate, including information concerning any business, other than the business of money transmission under this chapter, that will be conducted at each identified location, as required under section 24(10) of this chapter.

(2) Paying the annual renewal fee described under section 37 of this chapter.

(b) A licensee that:

(1) does not:

(A) file:

(i) a renewal; or

(ii) any financial statements required by subsection

(a)(1)(A);

by the renewal filing deadline set by the director; or

(B) pay the renewal fee by December 31 of each year; and

(2) has not been granted an extension of time by the department to meet the requirements described in subdivision (1);

shall be notified by the department, in writing, that a hearing will be scheduled at which the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements. If after the hearing the license is not suspended, the department shall require a daily late fee beginning with the date the renewal, the financial statements, or the annual renewal fee is required by this chapter, in an amount fixed by the department under IC 28-11-3-5.

(c) The director may, for good cause shown, waive any requirement of this section.

*As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.58 and P.L.57-2006, SEC.58; P.L.1-2007, SEC.188; P.L.213-2007, SEC.81; P.L.217-2007, SEC.79; P.L.216-2013, SEC.61; P.L.137-2014, SEC.32.*

#### **IC 28-8-4-39**

#### **Written reports following bankruptcies or reorganizations, license revocations or suspensions, and felony indictments and convictions**

Sec. 39. A licensee shall file a written report with the director not later than fifteen (15) days after the occurrence of one (1) or more of the following events:

(1) The filing for bankruptcy or reorganization by the licensee.

(2) The institution of revocation or suspension proceedings against the licensee by a state or governmental authority with regard to the licensee's money transmission activities.

(3) A felony indictment of the licensee or of a key officer or director of the licensee related to money transmission activities.

(4) A felony conviction of the licensee or a key officer or

director of the licensee related to money transmission activities.  
The written report must give details concerning the event.  
*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-40**

##### **Repealed**

*(Repealed by P.L.89-2011, SEC.78.)*

#### **IC 28-8-4-40.1**

##### **License not transferable or assignable**

Sec. 40.1. Except in a transaction approved under section 40.2 of this chapter, a license is not transferable or assignable.

*As added by P.L.89-2011, SEC.58.*

#### **IC 28-8-4-40.2**

##### **Change in control of licensee; application to department; timeframe for department's decision; conditions for approval; duty of licensee to report transfer of securities; director's discretion to require new license**

Sec. 40.2. (a) As used in this section, "control" means possession of the power directly or indirectly to:

- (1) direct or cause the direction of the management or policies of a licensee, whether through the beneficial ownership of voting securities, by contract, or otherwise; or
- (2) vote at least twenty-five percent (25%) of the voting securities of a licensee, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(b) An organization or an individual acting directly, indirectly, or through or in concert with one (1) or more other organizations or individuals may not acquire control of any licensee unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days after receipt of an application to issue a notice approving the proposed change in control. The application must contain the name and address of the organization, individual, or individuals who propose to acquire control and any other information required by the director.

(c) The period for approval under subsection (b) may be extended:

- (1) in the discretion of the director for an additional thirty (30) days; and
- (2) not more than two (2) additional times for not more than forty-five (45) days each time if:
  - (A) the director determines that the organization, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (d);
  - (B) the director determines that any material information submitted is substantially inaccurate; or
  - (C) the director has been unable to complete the investigation

of the organization, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the organization, individual, or individuals.

(d) The department shall issue a notice approving the application only after it is satisfied that both of the following apply:

(1) The organization, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the licensee in a legal and proper manner.

(2) The interests of the owners and creditors of the licensee and the interests of the public generally will not be jeopardized by the proposed change in control.

(e) The director may determine, in the director's discretion, that subsection (b) does not apply to a transaction if the director determines that the direct or beneficial ownership of the licensee will not change as a result of the transaction.

(f) The president or other chief executive officer of a licensee shall report to the director any transfer or sale of securities of the licensee that results in direct or indirect ownership by a holder or an affiliated group of holders of at least ten percent (10%) of the outstanding securities of the licensee. The report required by this subsection must be made not later than ten (10) days after the transfer of the securities on the books of the licensee.

(g) Depending on the circumstances of the transaction, the director may reserve the right to require the organization, individual, or individuals who propose to acquire control of a licensee to apply for a new license under section 20 of this chapter, instead of acquiring control of the licensee under this section.

*As added by P.L.89-2011, SEC.59. Amended by P.L.6-2012, SEC.198.*

#### **IC 28-8-4-40.5**

#### **Other business at money transmission locations; notice to department**

Sec. 40.5. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any of the following apply:

(1) Any business, other than the business of money transmission under this chapter, will be conducted by the licensee or another person, other than an authorized delegate that is not under common control with the applicant, at any location in Indiana in which the licensee conducts the business of money transmission under this chapter.

(2) Any information concerning other business conducted at the locations identified in the licensee's application under section 24(10) of this chapter changes.

(b) For each location described in subsection (a)(1) or (a)(2), the licensee shall provide to the department the information required under section 24(10) of this chapter with respect to that location:

- (1) not later than fifteen (15) days after the other business begins operating at the location; or
- (2) if the licensee's next application for a renewal license under section 38 of this chapter is due before the date described in subdivision (1), in the licensee's next application for a renewal license under section 38 of this chapter.

*As added by P.L.10-2006, SEC.59 and P.L.57-2006, SEC.59.  
Amended by P.L.213-2007, SEC.82; P.L.217-2007, SEC.80.*

#### **IC 28-8-4-40.6**

##### **Felony convictions; notice to department**

Sec. 40.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, the licensee, or any individual described in section 35(b)(2) or 35(b)(3) of this chapter, has been convicted of a felony under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 24(5)(B) or 25(6)(B) of this chapter, whichever applies:

- (1) not later than thirty (30) days after the licensee or individual described in section 35(b)(2) or 35(b)(3) of this chapter has been convicted of the felony; or
- (2) if the licensee's next license renewal fee under section 37 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 37 of this chapter.

*As added by P.L.213-2007, SEC.83; P.L.217-2007, SEC.81.  
Amended by P.L.90-2008, SEC.59; P.L.35-2010, SEC.182;  
P.L.216-2013, SEC.62.*

#### **IC 28-8-4-41**

##### **Onsite examination by director; notice required; fees; department's investigatory and enforcement authority; examination of vendors**

Sec. 41. (a) The director may conduct an annual onsite examination of a licensee or an authorized delegate of a licensee.

(b) If the director determines that a reasonable belief exists that a person is operating without a valid license or in violation of this chapter, the director has the authority to investigate and examine the records of that person. The person examined must pay the reasonably incurred costs of the examination.

(c) Except as provided in section 42(a)(2) of this chapter, the director must give the licensee forty-five (45) days written notice before conducting an onsite examination.

(d) If the director determines, based on the licensee's financial statements and past history of operations in Indiana, that an onsite examination is unnecessary, the director may waive the onsite examination.

(e) If the director concludes that an onsite examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination in accordance with the fee schedule

adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent.

(f) An onsite examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. In lieu of an onsite examination, a director may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm. A report accepted under this subsection shall be considered, for all purposes, to be an official report of the director.

(g) To discover violations of this chapter or to secure information necessary for the enforcement of this chapter, the department may investigate any:

- (1) licensee; or
- (2) person that the department suspects to be operating:
  - (A) without a license, when a license is required under this chapter; or
  - (B) otherwise in violation of this chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee or other person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5.

(h) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

*As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.60 and P.L.57-2006, SEC.60; P.L.35-2010, SEC.183; P.L.27-2012, SEC.99; P.L.137-2014, SEC.33.*

#### **IC 28-8-4-42**

##### **Suspected violations; request for additional financial data; onsite examinations without notice; fees**

Sec. 42. (a) If the director has a reasonable basis to believe that a licensee or an authorized delegate of a licensee is in violation of this chapter, the director may:

- (1) request financial data from the licensee in addition to that required under section 38(a)(1) of this chapter; or

(2) conduct an in-state, onsite examination of an authorized delegate's operation or a licensee's location without prior notice to the authorized delegate or licensee.

(b) All reasonable costs of an examination incurred under subsection (a)(2) shall be paid by the:

(1) authorized delegate whose operation is examined; or

(2) the licensee whose location is examined;

in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent.

*As added by P.L.42-1993, SEC.85. Amended by P.L.27-2012, SEC.100.*

#### **IC 28-8-4-43**

##### **Making, keeping, and preserving records**

Sec. 43. A licensee shall make, keep, and preserve the following for three (3) years:

(1) A record or records of payment instruments sold.

(2) A general ledger containing all asset, liability, capital income, and expense accounts for which a general ledger shall be posted at least monthly.

(3) Settlement sheets, if received from authorized delegates.

(4) Bank statements and bank reconciliation records.

(5) Records of outstanding payment instruments.

(6) Records of each payment instrument paid within the three (3) years.

(7) A list of the names and addresses of all of the licensee's authorized delegates, as well as a copy of each authorized delegate's contract.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-44**

##### **Maintenance and availability of records**

Sec. 44. (a) The records maintained under section 43 of this chapter shall be:

(1) maintained in conformity with generally accepted accounting principles and practices in a manner that will enable the director to determine whether the licensee is complying with the provisions of this chapter; and

(2) made reasonably available to the director.

(b) The director shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-45**

##### **Maintenance of records at foreign locations**

Sec. 45. Records maintained under section 43 of this chapter may be maintained at a location that is outside Indiana if the records are made accessible to the director after the director has given fifteen

(15) days written notice.  
*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-45.5**

##### **Duty to safeguard personal records**

Sec. 45.5. The following persons are subject to IC 28-1-2-30.5 with respect to any records maintained by the person:

- (1) A person licensed or required to be licensed under this chapter.
- (2) An authorized delegate of a person described in subdivision (1).

*As added by P.L.90-2008, SEC.60.*

#### **IC 28-8-4-46**

##### **Compliance with money laundering laws; investigation and enforcement by department**

Sec. 46. (a) The licensee or an authorized delegate shall comply with all state and federal money laundering statutes and regulations, including the following:

- (1) The Bank Secrecy Act (31 U.S.C. 5311 et seq.).
- (2) The USA Patriot Act of 2001 (P.L. 107-56).
- (3) Any regulations, policies, or reporting requirements established by the Financial Crimes Enforcement Network of the United States Department of the Treasury.
- (4) Any other state or federal money laundering statutes or regulations that apply to a licensee or an authorized delegate.

(b) The department shall do the following:

- (1) To the extent authorized or required by state law, investigate potential violations of, and enforce compliance with, state money laundering statutes or regulations.
- (2) Investigate potential violations of federal money laundering statutes or regulations and, to the extent authorized or required by federal law:
  - (A) enforce compliance with the federal statutes or regulations; or
  - (B) refer suspected violations of the federal statutes or regulations to the appropriate federal regulatory agencies.

*As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.61 and P.L.57-2006, SEC.61.*

#### **IC 28-8-4-47**

##### **Confidentiality of information; exceptions**

Sec. 47. (a) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including:

- (1) all information contained in or related to:
  - (A) examination;
  - (B) investigation;

(C) operation; or  
(D) condition;  
reports prepared by, on behalf of, or for the use of the director;  
or  
(2) financial statements, balance sheets, or authorized delegate  
information;  
are confidential and may not be disclosed or distributed outside the  
department by the director or any officer or employee of the  
department, except as provided in subsection (b).

(b) The director may provide for the release of information to  
representatives of:

(1) financial institution and money services business  
supervisory agencies;  
(2) law enforcement agencies; or  
(3) prosecutorial agencies or offices;  
of a state (as defined in IC 28-2-17-19), the United States, or a  
foreign country. An agency or office that receives information from  
the director under this subsection shall maintain the confidentiality  
of the information as described in IC 28-1-2-30.

(c) Nothing in this section shall prohibit the director from  
releasing to the public a list of persons licensed under this chapter or  
from releasing aggregated financial data on such licensees.

*As added by P.L.42-1993, SEC.85. Amended by P.L.258-2003,  
SEC.17; P.L.213-2007, SEC.84; P.L.217-2007, SEC.82;  
P.L.90-2008, SEC.61.*

#### **IC 28-8-4-48**

##### **Suspension or revocation of license; order to show cause; order of suspension or revocation; relinquishment of license; existing obligations; emergency order for revocation**

Sec. 48. (a) The director may issue to a licensee an order to show  
cause why the licensee's license should not be revoked or suspended  
for a period determined by the department.

(b) An order issued under subsection (a) must:

(1) include:

(A) a statement of the place, date, and time for a meeting  
with the department, which date may not be less than ten  
(10) days from the date of the order;  
(B) a description of the action contemplated by the  
department; and  
(C) a statement of the facts or conduct supporting the  
issuance of the order; and

(2) be accompanied by a notice stating that the licensee is  
entitled to:

(A) a reasonable opportunity to be heard; and  
(B) show the licensee's compliance with all lawful  
requirements for retention of the license;  
at the meeting described in subdivision (1)(A).

(c) After the meeting described in subsection (b)(1)(A), the  
department may revoke or suspend the license if the department finds

that:

- (1) the licensee has repeatedly and willfully violated:
  - (A) this chapter or any rule, order, or guidance document adopted or issued by the department; or
  - (B) any other state or federal law, regulation, or rule applicable to the business of money transmission;
- (2) the licensee does not meet the licensing qualifications set forth in this chapter;
- (3) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;
- (4) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or
- (5) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(d) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

- (1) the revocation or suspension;
- (2) if a suspension has been ordered, the duration of the suspension;
- (3) the procedure for appealing the revocation or suspension under IC 4-21.5-3-5; and
- (4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to engage in the business of money transmission may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue the revocation of a license of a licensee that has relinquished the license under subsection (e).

(g) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing lawful contract.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

*As added by P.L.42-1993, SEC.85. Amended by P.L.80-1998, SEC.20; P.L.27-2012, SEC.101.*

**IC 28-8-4-48.1****Failure to file renewal form or pay renewal fee; revocation or suspension of license**

Sec. 48.1. (a) A license issued by the department under this chapter may be revoked or suspended by the department if the person fails to:

- (1) file any renewal form required by the department; or
- (2) pay any license renewal fee described under section 37 of this chapter;

not later than sixty (60) days after the due date.

(b) A person whose license is revoked or suspended under this section may:

- (1) pay all delinquent fees and apply for a reinstatement of the person's license; or
- (2) appeal the revocation or suspension to the department for an administrative review under IC 4-21.5-3.

Pending the decision resulting from a hearing under IC 4-21.5-3 concerning license revocation or suspension, a license remains in force.

*As added by P.L.176-1996, SEC.24. Amended by P.L.89-2011, SEC.60.*

**IC 28-8-4-49****Authorized delegates; written contract required; contents; exemption from licensing requirements; resignation, discharge or termination; notice to department**

Sec. 49. (a) Licensees desiring to conduct licensed activities through authorized delegates shall authorize each delegate to operate pursuant to an express written contract, which shall provide for the following:

- (1) That the licensee appoints the person as its delegate with authority to sell payment instruments and accept funds to be transmitted by or on behalf of the licensee.
- (2) That neither a licensee nor an authorized delegate may authorize a subdelegate without the written consent of the director.
- (3) That licensees are subject to supervision and regulation by the director.
- (4) An acknowledgment that the authorized delegate consents to the director's inspection, with or without prior notice to the licensee or authorized delegate, of the books, records, and accounts of an authorized delegate of the licensee when the director has a reasonable basis to believe that the licensee or authorized delegate is in violation of this chapter.
- (5) That authorized delegates are under a duty to act only as authorized under the contract with the licensee and that an authorized delegate who exceeds the delegate's authority is subject to cancellation of the delegate's contract and disciplinary action by the director.

(b) Subject to sections 50 and 51 of this chapter, an authorized

delegate of a licensee or of a person exempt from licensure under section 1 of this chapter is exempt from the licensing requirements of this chapter if the authorized delegate acts within the scope of the written contract executed under subsection (a) between the authorized delegate and the licensee or exempt person.

(c) A licensee shall give the department written notice of the resignation, discharge, or termination of an authorized delegate against whom allegations were made that accused the authorized delegate of:

(1) violating this chapter or other laws, regulations, rules, or industry standards of conduct applicable to money transmission; or

(2) fraud, dishonesty, theft, or the wrongful taking of property.

The licensee shall provide the department the notice required under this subsection not later than thirty (30) days after the effective date of the resignation, discharge, or termination.

*As added by P.L.42-1993, SEC.85. Amended by P.L.27-2012, SEC.102; P.L.216-2013, SEC.63.*

#### **IC 28-8-4-50**

##### **Compliance by authorized delegates**

Sec. 50. (a) An authorized delegate may not make any fraudulent or false statement or misrepresentation to a licensee or to the director.

(b) An authorized delegate must comply with the following:

(1) All money transmission or sale or issuance of payment instrument activities conducted by an authorized delegate shall be strictly in accordance with the licensee's written procedures provided to the authorized delegate.

(2) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate. The failure of an authorized delegate to remit all money owing to a licensee within the time presented shall result in liability of the authorized delegate to the licensee for three (3) times the licensee's actual damages.

(3) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission shall, from the time the funds are received by the authorized delegate until the funds or an equivalent amount are remitted by the authorized delegate to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized delegate commingles any of the funds with any other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

(4) An authorized delegate shall report to the licensee the theft or loss of payment instruments not more than twenty-four (24) hours after the time the authorized delegate knew or should have

known of the theft or loss.  
*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-51**

##### **Suspension and barring of authorized delegates**

Sec. 51. (a) If, after notice and a hearing, the director finds that an authorized delegate of a licensee or a director, an officer, an employee, or a controlling person of the authorized delegate:

(1) has violated any provision of this chapter or order issued under this chapter;

(2) has engaged or participated in any unsafe or unsound act with respect to the business of:

(A) selling or issuing payment instruments of the licensee; or

(B) money transmission;

(3) has made or caused to be made in an application or report filed with the director or in any proceeding before the director, any statement that was at the time and in the circumstances under which it was made, false or misleading with respect to any material fact; or

(4) has omitted to state in an application or report filed with the director a material fact that is required to be stated therein;

the director may issue an order suspending or barring such authorized delegate from becoming or continuing to be an authorized delegate of a licensee during the period for which such order is in effect.

(b) Upon issuance of an order under subsection (a), the licensee shall terminate the licensee's relationship with the authorized delegate according to the terms of the order.

(c) Any authorized delegate to whom an order is issued under this section may apply to the director to modify or rescind the order. The director shall not grant such application unless the director finds that it is in the public interest to do so and that it is reasonable to believe that the person will, if and when the person is permitted to resume being an authorized delegate of a licensee, comply with all applicable provisions of this chapter and of any regulation and order issued under this chapter.

(d) The right of an authorized delegate to whom an order is issued under this section to petition for judicial review of an order shall not be affected by the failure of the authorized delegate to apply to the director to modify or rescind the order.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-52**

##### **Applicability of law governing administrative orders and procedures; venue**

Sec. 52. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 must be held in Marion County.

*As added by P.L.42-1993, SEC.85. Amended by P.L.35-2010, SEC.184.*

**IC 28-8-4-53****Civil penalties**

Sec. 53. (a) If the department determines, after notice and an opportunity to be heard, that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.

(b) A penalty collected under this section shall be deposited into the financial institutions fund established by IC 28-11-2-9.

*As added by P.L.42-1993, SEC.85. Amended by P.L.89-2011, SEC.61.*

**IC 28-8-4-54****Claims against licensees and authorized delegates**

Sec. 54. A claim against a licensee or its authorized delegate may be brought by:

- (1) the claimant filing suit against the surety bond provided for in section 27 of this chapter; or
- (2) the director filing suit on behalf of a claimant, in one (1) action or in successive actions.

*As added by P.L.42-1993, SEC.85. Amended by P.L.216-2013, SEC.64.*

**IC 28-8-4-55****Compromise, settlement, and collection of civil penalties**

Sec. 55. The director, in the exercise of reasonable judgment, is authorized to compromise, settle, and collect civil penalties from a person for a violation of:

- (1) a provision of this chapter; or
- (2) an order issued or promulgated pursuant to this chapter.

*As added by P.L.42-1993, SEC.85.*

**IC 28-8-4-56****Injunctions**

Sec. 56. If it appears to the director that a person has committed or is about to commit a violation of a provision of this chapter or an order of the director, the director may apply to a court having jurisdiction for:

- (1) an order enjoining such person from violating or continuing to violate this chapter or such other order as the nature of the case may require; or
- (2) injunctive or such other relief as the nature of the case may require.

*As added by P.L.42-1993, SEC.85.*

**IC 28-8-4-57****Consent orders**

Sec. 57. (a) The director may enter into a consent order with a person to resolve a matter arising under this chapter.

(b) A consent order must comply with the following provisions:

- (1) Be signed by the person to whom it is issued or an authorized representative.
- (2) Indicate agreement to the terms contained within the consent.
- (c) A consent order need not:
  - (1) constitute an admission by a person that a provision of this chapter or an order promulgated or issued thereunder has been violated; or
  - (2) constitute a finding by the director that such person has violated a provision of this chapter or an order promulgated or issued thereunder.
- (d) Notwithstanding the issuance of a consent order, the director may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the director from doing so.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-58**

##### **Violations**

Sec. 58. (a) A person who knowingly or intentionally violates a provision of this chapter for which a penalty is not specifically provided commits a Class A misdemeanor.

(b) A person who knowingly or intentionally makes a material, false statement in a document filed or required to be filed under this chapter, with the intent to deceive the recipient of the document, commits a Level 5 felony.

(c) A person who knowingly or intentionally fails to file a document required to be filed under this chapter commits a Level 5 felony.

*As added by P.L.42-1993, SEC.85. Amended by P.L.158-2013, SEC.301.*

#### **IC 28-8-4-59**

##### **Rules and regulations**

Sec. 59. (a) Rules and regulations promulgated by the director pursuant to authority conferred by this chapter will be pursuant to IC 4-22-2.

(b) At the time the director files a notice of proposed adoption, amendment, or repeal of a rule for public comment under this chapter, a copy of the notice will be sent by first class mail postage prepaid to all then current licensees and applicants for licenses under this chapter.

*As added by P.L.42-1993, SEC.85.*

#### **IC 28-8-4-60**

##### **Jurisdiction**

Sec. 60. A licensee, an authorized delegate, or a person who knowingly engages in business activities that are regulated under this chapter, with or without filing an application, is considered to have

consented to the jurisdiction of the courts of Indiana for all actions arising under this chapter.

*As added by P.L.42-1993, SEC.85.*

**IC 28-8-4-61**

**Administration of chapter**

Sec. 61. The division of consumer credit shall have charge of the administration of this chapter.

*As added by P.L.42-1993, SEC.85.*